

# Exhibit A

[Submitting counsel below]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**IN RE: UBER TECHNOLOGIES, INC.,  
PASSENGER SEXUAL ASSAULT  
LITIGATION**

No. 3:23-md-03084-CRB

**DECLARATION OF ROOPAL P. LUHANA  
IN SUPPORT OF PLAINTIFFS' STATUS  
REPORT REGARDING DEFENDANTS'  
COMPLIANCE WITH PTO NO. 2**

This Document Relates to:  
All Cases

I, Roopal P. Luhana, declare and state as follows:

1. I am an attorney and partner at Chaffin Luhana LLP, counsel for Plaintiffs and Court-appointed Co-Lead Counsel in this action. I am a member in good standing of the State Bars of New York, New Jersey, and Pennsylvania, and am admitted *pro hac vice* in this coordinated action. I make this declaration based on my own personal knowledge. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. I submit this Declaration in support of Plaintiffs' Notice Regarding Noncompliance of Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (collectively "Uber") with PTO No. 2 (Dkt. 65).

3. On November 3, 2023, the Court held an initial status conference that, inter alia, addressed Plaintiffs' concerns that Uber had destroyed and is not properly preserving evidence. A true and accurate copy of the November 3, 2023 Hearing Transcript in *In re Uber Technologies*,

1 *Inc. Passenger Sexual Assault Litig.*, No. 23-md-03084 (N.D. Cal. Nov. 3, 2023) is attached  
2 hereto as **Exhibit 1**.

3 4. In response to the concerns Plaintiffs raised in their submission for the November  
4 3, 2024 hearing, the Court issued PTO No. 2 which required Uber to (1) confirm to Plaintiffs that  
5 Uber is preserving all information that may be relevant to this litigation, from all sources,  
6 including corporate and personal accounts, and including email systems, mobile device data, text  
7 messaging application, and (2) ensure Uber had implemented a litigation hold covering both Uber  
8 and vendors, including vendors that maintain backup media that may contain copies of deleted  
9 emails, Slack messages, and other relevant communication that may have been destroyed  
10 pursuant to Uber's document-retention policies. Dkt. 65.

11 5. On January 8, 2024, Magistrate Judge Lisa J. Cisneros held a hearing to address  
12 Plaintiffs' Motion to Enforce PTO No. 2. During that hearing, Plaintiffs' counsel raised concern  
13 that Uber was not complying with PTO No. 2, particularly with respect to the dates of litigation  
14 holds, the date range of ESI that was preserved, and preservation of non-custodial ESI. A true and  
15 correct copy of the January 8, 2024 Hearing Transcript in *In re Uber Technologies, Inc.*  
16 *Passenger Sexual Assault Litig.*, No. 23-md-03084 (N.D. Cal. Jan. 8, 2024) is attached hereto as  
17 **Exhibit 2**.

18 6. In response to the concerns Plaintiffs raised in their Motion and during the January  
19 8 hearing, Judge Cisneros issued an Order enforcing PTO No. 2 ("Judge Cisneros' Order"). Dkt.  
20 190. That Order required Uber to disclose to Plaintiffs certain information about preservation of  
21 ESI, including sources and dates preserved, as well as information about Uber's litigation holds,  
22 including dates of the holds and dates of ESI preserved pursuant to litigation holds. *Id.* at 8-9.  
23 This information was due to Plaintiffs by January 16, 2024. *Id.* Information regarding non-  
24 custodial ESI sources was to be provided in the form of a declaration or a list. *Id.* at 9.  
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1           7.       On January 16 2024, Uber made an incomplete disclosure in response to PTO No.  
2 2 and Judge Cisneros' Order. Dkt. 217-4.

3           8.       On January 19, 2024, counsel for Plaintiffs sent correspondence to Uber  
4 identifying deficiencies with their January 16, 2024 disclosures and asked Uber to meet and  
5 confer about the deficiencies. Specifically, Plaintiffs' counsel raised concern that Uber failed to  
6 (1) produce a list or declaration of non-custodial sources of ESI; and (2) provide the dates of  
7 preserved ESI for Uber employees on litigation hold. A true and accurate copy of Plaintiffs'  
8 January 19, 2024 correspondence to Uber is attached hereto as **Exhibit 3**.

9           9.       During a January 19, 2024 hearing with Judge Cisneros, Plaintiffs' counsel  
10 advised the Court that Uber had not complied with PTO No. 2 and Judge Cisneros' Order. A true  
11 and accurate copy of the January 19, 2024 Hearing Transcript in *In re Uber Technologies, Inc.*  
12 *Passenger Sexual Assault Litig.*, No. 23-md-03084 (N.D. Cal. Jan. 19, 2024) is attached hereto as  
13 **Exhibit 4**. The Court admonished that "*it's extremely important that these orders are complied*  
14 *with.*" Ex. 5 at 9.

15           10.      On January 24, 2024 (more than a week after Uber's compliance deadline had  
16 passed), the parties discussed these issues during an extensive meet and confer because Uber still  
17 had not produced the information required per Judge Cisneros' January 9, 2024 Order. Following  
18 that discussion, Plaintiffs' counsel sent Uber a letter on January 29, 2024, outlining again the  
19 deficiencies in Uber's response to PTO No. 2 and Judge Cisneros' order, and providing additional  
20 detail based on the January 24, 2024 meet and confer. Again, Plaintiffs' counsel complained that  
21 Uber failed to: (1) produce a list and/or declaration of non-custodial sources; and 2) provide dates  
22 of preserved ESI. Ex. 6 at 1.

23           11.      On February 8, 2024, Counsel for Uber acknowledged Plaintiffs' January 29, 2024  
24 letter and noted that Uber was "working on a response" and that it expected to provide the  
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1 response “next week.” A true and accurate copy of the parties’ February 8 and 9, 2024  
2 correspondence is attached hereto as **Exhibit 5**.

3 12. Plaintiffs have not received any additional information from Uber on these topics  
4 since January 16, 2023.

5 13. Uber has not fully complied with PTO No. 2 and Judge Cisnero’s Order in the  
6 following ways:  
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- 8 (1) Uber did not provide a declaration or list ESI sources as required by Judge  
9 Cisneros’ Order, and instead provide a letter that did not fully identify ESI  
10 sources, particularly non-custodial sources, and does not provide a clear  
11 picture as to when Uber used the ESI sources, whether the ESI was preserved,  
12 and the precise dates that the sources were under litigation holds. Dkt. 217-4.
- 13 (2) Uber has not fully evaluated and disclosed ESI from non-custodial sources,  
14 particularly Slack, HipChat, uChat, and Box. Although Uber disclosed that it  
15 used these non-custodial sources, Uber did not identify what ESI was retained  
16 from those sources and for what dates. Instead, Uber described what  
17 “generally” “would have been done” under a general retention policy. *Id.* This  
18 does not meet Uber’s obligation to provide information about what was  
19 *actually* done during those dates. Further, Uber has not provided any  
20 information about ESI prior to the date the general policy was instituted. *Id.*
- 21 (3) Uber has not provided full and accurate information regarding the dates of  
22 litigation holds for custodial ESI sources. Instead, Uber provided a single  
23 “legal hold date” for each custodian Uber identified. *Id.* at Ex. B. Notably,  
24 many custodians show numerous “legal hold dates,” however, Uber did not  
25 identify when any legal hold may have ended and whether ESI was preserved  
26 or destroyed between litigation hold dates. *Id.*

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
28 February 16, 2024, in New York, New York.

/s/ Roopal P. Luhana

Roopal P. Luhana

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